

### **REMARKS**

This responds to the Office Action mailed on February 9, 2005, and the references cited therewith.

Claims 1, 14, 20, 21, 26, 28 and 29 are amended, claims 2, 13, and 19 are canceled; as a result, claims 1, 3-12, 14-18, and 20-29 are now pending in this application.

#### **§112 Rejection of the Claims**

Claims 1-12, 14-18 and 20-29 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement. Specifically, the Office Action alleges that there is no support for the limitation “each category identifier in the first plurality of category identifiers is distinct from each category identifier in the second plurality of category identifiers.” The Applicant respectfully traverses this rejection.

Notwithstanding the Applicant’s traversal of this rejection, to advance the prosecution of the application, the Applicant has amended claims to remove the limitation of “each category identifier in the first plurality of category identifiers is distinct from each category identifier in the second plurality of category identifiers.” The Applicant respectfully submits that the amendments overcome the rejections under section 112, and respectfully submit that this rejection be withdrawn.

#### **§103 Rejection of the Claims**

Claims 1-12, 14-18, 20-23 and 26-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent no. 6,489,968 (hereinafter Ortega) in view of U.S. Patent no. 6,286,002 (hereinafter Axaopoulos).

Applicant respectfully submits that claims 1, 14, 20, 28 and 29 should not be rejected under 35 U.S.C. § 103 for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference

or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 1, as amended, includes the following limitation:

defining the first structure of categories as a first hierarchy of categories and defining the second structure of categories as an alternative second hierarchy of categories...

The Office Action, in rejecting claim 2, contends that the above limitation is anticipated by the following disclosure in Ortega:

Books and low-level categories that are currently very popular thus tend to be featured at many different levels of the tree, increasing the probability of exposure in proportion to level of popularity. Preferably, the nodes are selected for elevation based on a combination of user-specific and collective user activity data, so that the featured books and categories reflect both the interests of the particular user and the interests of others.

Col. 3, lines 21-24.

The above quote from Ortega describes a browse tree that includes higher-level categories, lower level categories, and books. The lower level categories and books may be elevated to higher level categories within the browse tree. The elevation may be in proportion to the level of popularity of the categories and/or books. For example, the most popular categories and books may be elevated to the highest level of categories within the browse tree. Elevation facilitates presentation to a user who may not otherwise navigate to the lower categories of the browse tree (Col. 1, lines 34-42).

Claim 1 requires a first hierarchy of categories and an alternative second hierarchy of categories. Merely for example, the Figure 5 of the present application is a diagram illustrating a first hierarchy of categories (e.g., Actual Categories - Parent, Child and Grand Child Categories) and an alternative second hierarchy of categories (e.g., Virtual Categories - Parent, Child and Grand Child Categories). In contrast, the above quote from Ortega does not describe a first

hierarchy of categories and an alternative second hierarchy of categories; but rather, a single browse tree. Indeed, the above quote from Ortega describes elevating categories within the browse tree; but nowhere does the above quote from Ortega describe a first hierarchy of categories and an alternative second hierarchy of categories. Ortega therefore cannot be said to anticipate the above quoted limitation because Ortega describes a single browse tree and claim 1 requires a first hierarchy of categories and an alternative second hierarchy of categories.

Independent claims 14, 20, 28 and 29 each include a limitation corresponding substantially to the above-discussed limitation of claim 1. The above remarks are accordingly also applicable to a consideration of these independent claims.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 3-12, 15-18 and 21-23, 26-27 under 35 U.S.C. § 103 is also addressed by the above remarks.

Claims 24-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ortega in view of Axaopoulos and further in view of US Patent No. 6,381,607 (hereinafter Wu).

Dependent claims 24 and 25 depend on independent claim 20. If an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and the rejection of claims 24 and 25 under 35 U.S.C. § 103 is also addressed by the above remarks.

In summary, Ortega in combination with Axaopoulos in view of Wu does not teach or suggest each and every limitation of claims 1, 14, 20, 28 and 29 as required to support rejections of the independent claims of the present application under 35 U.S.C. § 103.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-846-8871 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 31 day of May, 2005.

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